

IN THE SENATE

SENATE BILL NO. 1015

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1
2 RELATING TO HOSPITALS AND HOME HEALTH AGENCIES; REPEALING SECTIONS 39-1301,
3 39-1301A, 39-1301B, 39-1302, 39-1303, 39-1303a, 39-1303b, 39-1303c,
4 39-1304, 39-1305, 39-1306, 39-1307, 39-1307A, 39-1307B, 39-1308,
5 39-1312, 39-1313, AND 39-1314, IDAHO CODE, RELATING TO HOSPITAL LI-
6 CENSES AND INSPECTION; AMENDING THE HEADING FOR CHAPTER 13, TITLE 39,
7 IDAHO CODE; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION
8 OF A NEW SECTION 39-1301, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER
9 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1302, IDAHO
10 CODE, TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 13, TITLE 39, IDAHO
11 CODE, BY THE ADDITION OF A NEW SECTION 39-1303, IDAHO CODE, TO ESTABLISH
12 PROVISIONS REGARDING LICENSURE; AMENDING CHAPTER 13, TITLE 39, IDAHO
13 CODE, BY THE ADDITION OF A NEW SECTION 39-1304, IDAHO CODE, TO PROVIDE
14 FOR THE DENIAL OR REVOCATION OF A LICENSE; AMENDING SECTION 39-1309,
15 IDAHO CODE, TO REVISE PROVISIONS REGARDING INSPECTIONS AND TO REDES-
16 IGNATE THE SECTION; AMENDING SECTION 39-1310, IDAHO CODE, TO REVISE
17 PROVISIONS REGARDING INFORMATION RECEIVED BY THE DEPARTMENT AND TO RE-
18 DESIGNATE THE SECTION; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE
19 ADDITION OF A NEW SECTION 39-1307, IDAHO CODE, TO PROVIDE FOR A PENALTY
20 FOR OPERATING A FACILITY WITHOUT A LICENSE; AMENDING CHAPTER 13, TITLE
21 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1308, IDAHO CODE,
22 TO PROVIDE FOR AN INJUNCTION TO PREVENT OPERATION WITHOUT A LICENSE;
23 AMENDING SECTION 39-1301C, IDAHO CODE, TO REDESIGNATE THE SECTION;
24 REPEALING CHAPTER 24, TITLE 39, IDAHO CODE, RELATING TO HOME HEALTH
25 AGENCIES; AMENDING SECTION 39-1392a, IDAHO CODE, TO PROVIDE A CORRECT
26 CODE REFERENCE; AMENDING SECTION 39-3301, IDAHO CODE, TO PROVIDE A COR-
27 RECT CODE REFERENCE; AMENDING SECTION 39-3322, IDAHO CODE, TO PROVIDE A
28 CORRECT CODE REFERENCE; AMENDING SECTION 39-3501, IDAHO CODE, TO PRO-
29 VIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-3505, IDAHO CODE, TO
30 PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-5302, IDAHO CODE,
31 TO REVISE A DEFINITION; AMENDING SECTION 54-3215, IDAHO CODE, TO PRO-
32 VIDE A CORRECT CODE REFERENCE; AMENDING SECTION 56-101, IDAHO CODE, TO
33 PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 56-1402, IDAHO CODE,
34 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 56-1602, IDAHO
35 CODE, TO REVISE A DEFINITION; AMENDING SECTION 56-1703, IDAHO CODE, TO
36 REVISE A DEFINITION; AMENDING SECTION 63-701, IDAHO CODE, TO REVISE A
37 DEFINITION; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN
38 IDAPA 16.03.02 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVID-
39 ING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA 16.03.07 SHALL
40 BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMIN-
41 ISTRATIVE RULES CONTAINED IN IDAPA 16.03.11 SHALL BE NULL, VOID, AND OF
42 NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CON-
43 TAINED IN IDAPA 16.03.14 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT;
44 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

1 Be It Enacted by the Legislature of the State of Idaho:

2 SECTION 1. That Section [39-1301](#), Idaho Code, be, and the same is hereby
3 repealed.

4 SECTION 2. That Section [39-1301A](#), Idaho Code, be, and the same is hereby
5 repealed.

6 SECTION 3. That Section [39-1301B](#), Idaho Code, be, and the same is hereby
7 repealed.

8 SECTION 4. That Section [39-1302](#), Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 5. That Section [39-1303](#), Idaho Code, be, and the same is hereby
11 repealed.

12 SECTION 6. That Section [39-1303a](#), Idaho Code, be, and the same is hereby
13 repealed.

14 SECTION 7. That Section [39-1303b](#), Idaho Code, be, and the same is hereby
15 repealed.

16 SECTION 8. That Section [39-1303c](#), Idaho Code, be, and the same is hereby
17 repealed.

18 SECTION 9. That Section [39-1304](#), Idaho Code, be, and the same is hereby
19 repealed.

20 SECTION 10. That Section [39-1305](#), Idaho Code, be, and the same is hereby
21 repealed.

22 SECTION 11. That Section [39-1306](#), Idaho Code, be, and the same is hereby
23 repealed.

24 SECTION 12. That Section [39-1307](#), Idaho Code, be, and the same is hereby
25 repealed.

26 SECTION 13. That Section [39-1307A](#), Idaho Code, be, and the same is
27 hereby repealed.

28 SECTION 14. That Section [39-1307B](#), Idaho Code, be, and the same is
29 hereby repealed.

30 SECTION 15. That Section [39-1308](#), Idaho Code, be, and the same is hereby
31 repealed.

32 SECTION 16. That Section [39-1312](#), Idaho Code, be, and the same is hereby
33 repealed.

34 SECTION 17. That Section [39-1313](#), Idaho Code, be, and the same is hereby
35 repealed.

1 SECTION 18. That Section 39-1314, Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 19. That the Heading for Chapter 13, Title 39, Idaho Code, be,
4 and the same is hereby amended to read as follows:

5 CHAPTER 13
6 HOSPITAL LICENSES AND INSPECTION HOSPITALS

7 SECTION 20. That Chapter 13, Title 39, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 39-1301, Idaho Code, and to read as follows:

10 39-1301. DEFINITIONS. For purposes of this section through section
11 39-1309, Idaho Code, the following terms shall be defined as follows:

12 (1) "CMS" means the centers for medicare and medicaid services.

13 (2) "Department" means the department of health and welfare.

14 (3) "Government unit" means the state, or any county, municipality, or
15 other political subdivision, or any department, division, board, or other
16 agency thereof.

17 (4) "Home health agency" means any business entity that primarily pro-
18 vides skilled nursing services by licensed nurses and also provides at least
19 one (1) other health care service to an individual in that individual's place
20 of residence.

21 (5) "Hospice house" means a facility that is owned and operated by a
22 medicare certified hospice agency for the purpose of providing inpatient
23 hospice services consistent with 42 CFR 418.110.

24 (6) "Hospital" has the same meaning as in section 1861 of the social se-
25 curity act.

26 (7) "Intermediate care facility" means a nonnursing home facility, de-
27 signed and operated to meet the unique educational, training, habilitative,
28 and medical needs of the developmentally disabled through the provision of
29 active treatment.

30 (8) "Nursing facility" or "nursing home" has the same meaning as in 42
31 CFR.

32 (9) "Person" means any individual, firm, partnership, corporation,
33 company, association, or joint stock association, and the legal successor
34 thereof.

35 SECTION 21. That Chapter 13, Title 39, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 39-1302, Idaho Code, and to read as follows:

38 39-1302. STREAMLINED FACILITIES LICENSING AND INSPECTION ACT -- SHORT
39 TITLE. Sections 39-1301 through 39-1309, Idaho Code, shall be known and may
40 be cited as the "Streamlined Facilities Licensing and Inspection Act."

41 SECTION 22. That Chapter 13, Title 39, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 39-1303, Idaho Code, and to read as follows:

1 39-1303. LICENSURE. (1) All medicare-certified or medicaid-certified
2 hospitals, nursing facilities, or intermediate care facilities shall meet
3 the standards for licensing pursuant to this chapter.

4 (2) A hospital shall have and maintain medicare certification through
5 an accreditation organization recognized by CMS or receive a determination
6 from the department that the hospital meets the criteria in 42 CFR for oper-
7 ating a hospital.

8 (3) A nursing facility or an intermediate care facility shall have and
9 maintain CMS certification.

10 (4) A hospital, nursing facility, or intermediate care facility mak-
11 ing an initial application for a license shall be issued a license if the de-
12 partment determines that all application information is acceptable and that
13 the hospital, nursing facility, or intermediate care facility is at least in
14 substantial compliance with the provisions of this chapter.

15 (5) Each licensee shall be designated by a distinctive name in apply-
16 ing for a license, and the name shall not be changed without first notifying
17 the department in writing. Each licensee shall specify the maximum number of
18 allowable beds in the hospital, nursing facility, or intermediate care fa-
19 cility, whether in use or not, and the licensee shall not exceed such maximum
20 number of beds.

21 (6) When applicable, a licensee shall comply with rules adopted by the
22 department, subject to legislative approval, on criminal history and back-
23 ground checks.

24 (7) A hospital, nursing facility, or intermediate care facility shall
25 notify the department, in accordance with the time frame established in fed-
26 eral regulations, for every change of ownership, lessee, or management firm.
27 A hospital, nursing facility, or intermediate care facility shall notify the
28 department within seventy-two (72) hours of any change in administrator and
29 submit a new application for licensure for any change in ownership or opera-
30 tor.

31 (8) Neither medicare-certified hospice agencies nor home health agen-
32 cies are required to be licensed or certified pursuant to this chapter.

33 SECTION 23. That Chapter 13, Title 39, Idaho Code, be, and the same is
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
35 ignated as Section 39-1304, Idaho Code, and to read as follows:

36 39-1304. DENIAL OR REVOCATION. Notwithstanding the provisions of sec-
37 tion 39-1303, Idaho Code, the department may deny any application or revoke
38 any license when persuaded by evidence that such conditions exist as to en-
39 danger the health or safety of any resident or patient. A license issued pur-
40 suant to this chapter shall remain in force until the license is voluntarily
41 surrendered or the facility fails to meet CMS certification standards.

42 SECTION 24. That Section 39-1309, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 39-1309~~5~~. INSPECTIONS AND CONSULTATIONS. The ~~licensing agency~~
45 department shall make or cause to be made such inspections and investiga-
46 tions as it deems necessary. ~~The licensing agency may prescribe by regula-~~
47 ~~tions that any~~ Any licensee or applicant desiring to make specified types of

1 ~~alteration~~ alterations or ~~addition~~ additions to its facilities or to con-
 2 struct new facilities shall, before commencing such ~~alteration, addition~~
 3 ~~alterations, additions,~~ or new construction, submit plans and specifica-
 4 ~~tions therefor~~ to the ~~licensing agency department~~ for ~~preliminary~~ inspec-
 5 tion and approval or recommendations with respect to compliance with the
 6 regulations and standards ~~herein~~ authorized pursuant to sections 39-1301
 7 through 39-1309, Idaho Code. ~~Necessary conferences and consultations may be~~
 8 ~~provided~~ The department recognizes the most recent edition of the facility
 9 guideline institute (FGI), guidelines for design and construction.

10 SECTION 25. That Section 39-1310, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 39-131006. INFORMATION. Information received by the ~~licensing agency~~
 13 ~~department~~ through filed reports, ~~inspection inspections,~~ or as other-
 14 wise authorized ~~under this law, which~~ pursuant to sections 39-1301 through
 15 39-1309, Idaho Code, that would identify individual residents or patients of
 16 facilities or agencies ~~as defined~~ shall be subject to disclosure according
 17 to chapter 1, title 74, Idaho Code, ~~except in a proceeding involving the~~
 18 ~~question of licensure.~~ Public disclosure of information obtained by the
 19 ~~licensing agency department~~ for the purposes of ~~this act~~ sections 39-1301
 20 through 39-1309, Idaho Code, shall be governed by chapter 1, title 74, Idaho
 21 Code. Nothing in ~~this act~~ sections 39-1301 through 39-1309, Idaho Code,
 22 however, shall be construed, ~~nor shall any rule or regulation be promulgated~~
 23 ~~under this section,~~ as to impair, restrict, or alter the confidentiality
 24 and privilege afforded the physician and patient communications, includ-
 25 ing without limitation, documentation thereof in records of facilities or
 26 agencies ~~as defined,~~ or communications to and with nurses or other assisting
 27 persons or entities, ~~nor shall this act.~~ Nothing in sections 39-1301 through
 28 39-1309, Idaho Code, shall be construed to amend by implication such physi-
 29 cian-patient communication privilege as provided ~~elsewhere in this code by~~
 30 ~~law,~~ including without limitation section 9-203(4), Idaho Code, which shall
 31 remain inviolate.

32 SECTION 26. That Chapter 13, Title 39, Idaho Code, be, and the same is
 33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 34 ignated as Section 39-1307, Idaho Code, and to read as follows:

35 39-1307. PENALTY FOR OPERATING A FACILITY WITHOUT LICENSE. Any person
 36 establishing, conducting, managing, or operating a hospital, nursing facil-
 37 ity, or intermediate care facility without a license pursuant to sections
 38 39-1301 through 39-1309, Idaho Code, shall be guilty of a misdemeanor. A vi-
 39 olation of this section is punishable by imprisonment in a county jail for a
 40 term not exceeding six (6) months, or by a fine not exceeding three hundred
 41 dollars (\$300), or by both. Each day of continued violation of the provi-
 42 sions of this section shall constitute a separate offense.

43 SECTION 27. That Chapter 13, Title 39, Idaho Code, be, and the same is
 44 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 45 ignated as Section 39-1308, Idaho Code, and to read as follows:

1 39-1308. INJUNCTION TO PREVENT OPERATION WITHOUT LICENSE. Notwith-
 2 standing the existence or pursuit of any other remedy, the department may
 3 maintain an action in the name of the state for injunction or other process
 4 or remedy allowable by law against any person, entity, or governmental unit
 5 to restrain or prevent the establishment, conduct, management, or operation
 6 of a hospital, nursing facility, or intermediate care facility without a
 7 license pursuant to sections 39-1301 through 39-1309, Idaho Code.

8 SECTION 28. That Section 39-1301C, Idaho Code, be, and the same is
 9 hereby amended to read as follows:

10 ~~39-1301C~~9. DEEMED STATUS OF HOSPICE AGENCY AND ITS HOSPICE HOME -- NO
 11 IDAHO LICENSE OR CERTIFICATION REQUIRED. (1) A hospice house and its owner
 12 and operator medicare certified hospice agency must have and maintain deemed
 13 status through a centers for medicare & medicaid services recognized accred-
 14 iting organization.

15 (2) Neither a medicare certified hospice agency nor its hospice home is
 16 required to be licensed or certified by the state of Idaho.

17 SECTION 29. That Chapter 24, Title 39, Idaho Code, be, and the same is
 18 hereby repealed.

19 SECTION 30. That Section 39-1392a, Idaho Code, be, and the same is
 20 hereby amended to read as follows:

21 39-1392a. DEFINITIONS. The following terms shall have the following
 22 meanings when used in this section:

23 (1) "Emergency medical services personnel" means emergency medical
 24 services providers certified by the department of health and welfare pur-
 25 suant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians
 26 as defined in the rules governing emergency medical services as promulgated
 27 by the department of health and welfare.

28 (2) "Group medical practice" means a partnership, corporation, limited
 29 liability company, or other association formed for the purpose of offering
 30 health care services through physicians and other licensed or otherwise au-
 31 thorized health care providers who are partners, shareholders, members, em-
 32 ployees, or contractors of such group medical practice.

33 (3) "Health care organization" means a hospital, in-hospital medical
 34 staff committee, medical society, managed care organization, licensed emer-
 35 gency medical service, group medical practice, residential care facility or
 36 skilled nursing facility.

37 (4) "Hospital" means a facility in Idaho ~~licensed under sections~~
 38 ~~39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1) as~~
 39 defined in section 39-1301, Idaho Code.

40 (5) "In-hospital medical staff committees" means any individual doctor
 41 who is a hospital staff member, or any hospital employee, or any group of such
 42 doctors and/or hospital employees, who are duly designated a committee by
 43 hospital staff bylaws, by action of an organized hospital staff, or by action
 44 of the board of directors of a hospital, and which committee is authorized
 45 by said bylaws, staff or board of directors, to conduct research or study of

1 hospital patient cases, or of medical questions or problems using data and
2 information from hospital patient cases.

3 (6) "Licensed emergency medical service" means an ambulance service or
4 a nontransport service licensed by the department of health and welfare pur-
5 suant to section 56-1011 et seq., Idaho Code.

6 (7) "Managed care organization" means a public or private person or or-
7 ganization which offers a managed care plan.

8 (8) "Managed care plan" means a contract of coverage given to an indi-
9 vidual, family or group of covered individuals pursuant to which a member is
10 entitled to receive a defined set of health care benefits through an orga-
11 nized system of health care providers in exchange for defined consideration
12 and which requires the member to use, or creates financial incentives for the
13 member to use, health care providers owned, managed, employed by or under
14 contract with the managed care organization.

15 (9) "Medical society" means any duly constituted, authorized and rec-
16 ognized professional society or entity made up of physicians licensed to
17 practice medicine in Idaho, having as its purpose the maintenance of high
18 quality in the standards of health care provided in Idaho or any region or
19 segment of the state, operating with the approval of the Idaho state board
20 of medicine, or any official committee appointed by the Idaho state board of
21 medicine.

22 (10) "Patient care records" means written or otherwise recorded, pre-
23 served and maintained records of the medical or surgical diagnostic, clini-
24 cal, or therapeutic care of any patient treated by or under the direction of
25 licensed professional personnel, including emergency medical services per-
26 sonnel, in every health care organization subject to this act, whether as an
27 inpatient or outpatient of the health care organization.

28 (11) "Peer review" means the collection, interpretation and analysis of
29 data by a health care organization for the purpose of bettering the system
30 of delivery of health care or to improve the provision of health care or to
31 otherwise reduce patient morbidity and mortality and improve the quality of
32 patient care. Peer review activities by a health care organization include,
33 without limitation:

34 (a) Credentialing, privileging or affiliating of health care providers
35 as members of, or providers for, a health care organization;

36 (b) Quality assurance and improvement, patient safety investigations
37 and analysis, patient adverse outcome reviews, and root-cause analysis
38 and investigation activities by a health care organization; and

39 (c) Professional review action, meaning an action or recommendation
40 of a health care organization which is taken or made in the conduct of
41 peer review, that is based on the competence or professional conduct of
42 an individual physician or emergency medical services personnel where
43 such conduct adversely affects or could adversely affect the health
44 or welfare of a patient or the physician's privileges, employment or
45 membership in the health care organization or in the case of emergency
46 medical services personnel, the emergency medical services personnel's
47 scope of practice, employment or membership in the health care organ-
48 ization.

49 (12) "Peer review records" means all evidence of interviews, reports,
50 statements, minutes, memoranda, notes, investigative graphs and compila-

1 tions and the contents thereof, and all physical materials relating to peer
 2 review of any health care organization. "Peer review records" does not mean
 3 or include patient care records; provided however, that the records relating
 4 to the identification of which particular patient care records were selected
 5 for, or reviewed, examined or discussed in peer review by a health care or-
 6 ganization and the methodology used for selecting such records shall be con-
 7 sidered peer review records.

8 (13) "Skilled nursing facility" means a facility licensed under chapter
 9 13, title 39, Idaho Code, to provide skilled care to recipients.

10 SECTION 31. That Section 39-3301, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 39-3301. LEGISLATIVE INTENT AND DECLARATION. The purpose of a resi-
 13 dential care or assisted living facility in Idaho is to provide a humane,
 14 safe, and homelike living arrangement for adults who need some assistance
 15 with activities of daily living and personal care but do not require the
 16 ~~level of care identified under section 39-1301(b) care of a nursing facility~~
 17 as defined in section 39-1301, Idaho Code, other than for short exceptional
 18 stays meaning a treatment window designed to allow a resident to receive
 19 treatment for a short term acute episode as determined by a licensed profes-
 20 sional nurse.

21 The state will encourage the development of facilities tailored to the
 22 needs of individual populations which operate in integrated settings in
 23 communities where sufficient supportive services exist to provide the res-
 24 ident, if appropriate, an opportunity to work and be involved in recreation
 25 and education opportunities. Employment, recreational and educational
 26 opportunities for people with disabilities shall be offered in the most in-
 27 tegrated setting consistent with their needs.

28 A residential care or assisted living facility shall be operated and
 29 staffed by individuals who have the knowledge and experience required to
 30 provide safe and appropriate services to all residents of the facility.

31 The administrator of the facility shall ensure that an objective, in-
 32 dividualized assessment to determine resident needs is conducted, develop a
 33 comprehensive negotiated plan of care to meet those needs, deliver appropri-
 34 ate services to meet resident needs, and ensure resident rights are honored.

35 SECTION 32. That Section 39-3322, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 39-3322. QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF. (1) Each
 38 facility must employ or arrange for sufficient trained staff to fully meet
 39 the needs of its residents and the requirements of this chapter. The facil-
 40 ity shall have sufficient staff to provide care during all hours required in
 41 each resident's negotiated service plan. Additional staff may be required
 42 if physical plant and disability of residents indicate that staff assistance
 43 in emergencies is required. Benchmarks shall be established in the assess-
 44 ment criteria where the need for certified nursing assistants or licensed
 45 nurses is indicated. Residential care or assisted living facilities shall
 46 not retain residents who require ~~the care provided by nursing facilities~~
 47 under section 39-1301(b) care at a nursing facility as defined in section

1 39-1301, Idaho Code, other than for short exceptional stays pursuant to ne-
2 gotiated rulemaking as defined in chapter 52, title 67, Idaho Code.

3 (2) Should a residential care or assisted living facility choose not
4 to carry professional liability insurance, that information shall be dis-
5 closed, in writing, to employees at the time of hiring.

6 SECTION 33. That Section 39-3501, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 39-3501. LEGISLATIVE INTENT AND DECLARATION. (1) The purpose of a
9 certified family home in Idaho is to provide a homelike alternative to
10 more expensive or more restrictive congregate care or institutional care,
11 designed to allow vulnerable adults to reside in a family-style living en-
12 vironment focused on integrated community living. Certified family homes
13 provide housing and care to vulnerable adults who are elderly, who have men-
14 tal illnesses, developmental disabilities, or physical disabilities, or
15 who are otherwise unable to live alone without personal assistance and whose
16 mental, emotional, and physical condition can be met by the care provider.
17 The legislature supports the capabilities of individuals receiving services
18 in certified family homes to direct their own care. The care provider must
19 obtain a waiver ~~under section 39-1301A, Idaho Code,~~ to house and care for
20 two (2) persons requiring care ~~described in section 39-1301(b)~~ at a nursing
21 facility as defined in section 39-1301, Idaho Code.

22 (2) The certified family home shall be operated by a care provider who
23 has demonstrated the knowledge and experience required to provide safe and
24 appropriate services to each resident of the certified family home. The care
25 provider shall ensure an objective, individualized assessment is conducted
26 to determine resident needs and shall develop a comprehensive, negotiated
27 plan of service describing how to meet those needs. The care provider shall
28 ensure delivery of appropriate services to meet resident needs as described
29 in the plan of service and shall ensure resident rights are honored and pro-
30 tected.

31 (3) The department is responsible for monitoring and enforcing the
32 provisions of this chapter. This responsibility includes but is not limited
33 to monitoring the condition of the certified family home, ensuring that
34 each resident has an individualized written plan of service, and managing
35 enforcement procedures when violations occur.

36 SECTION 34. That Section 39-3505, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 39-3505. RULES. The board shall have the power and it shall be its duty
39 to promulgate appropriate rules necessary to implement and enforce the stan-
40 dards for certified family homes pursuant to this chapter, including but not
41 limited to the following:

42 (1) The care provider shall admit or retain no more than two (2) res-
43 idents concurrently in the certified family home. However, the department
44 may grant a variance for up to four (4) residents to receive care in the cer-
45 tified family home upon application by the care provider and upon a finding
46 by the department that the certified family home is able to comply with the
47 requirements of section 39-3507, Idaho Code. The department shall not grant

1 a variance for requests to admit or retain more than two (2) residents who re-
2 ~~quire nursing facility level of care as described in section 39-1301(b) care~~
3 at a nursing facility as defined in section 39-1301, Idaho Code. A variance
4 to exceed the two (2) resident limit in a certified family home shall not be
5 transferable to another resident or care provider. Certified family homes
6 issued a variance to exceed the two (2) resident limit shall be subject to
7 all statutes and rules governing certified family homes but shall not be sub-
8 ject to the residential care facility administrator licensing requirements
9 of chapter 42, title 54, Idaho Code, or the requirements of section 39-3340,
10 Idaho Code. Nothing in this subsection shall be construed to authorize in-
11 creased group size for providers of any form of care other than certified
12 family homes.

13 (2) The care provider shall live in the certified family home as the
14 care provider's primary residence.

15 (3) An individual cannot be approved as a care provider operating a
16 certified family home if the individual charges room or board to any person
17 staying in the home who is not resident, a relative of the care provider, or
18 full-time staff. A variance may be granted by the department for the spouse
19 of a resident when the resident's spouse does not require personal assis-
20 tance.

21 (4) A home cannot be approved as a certified family home and for child
22 foster care at the same time unless a variance is granted by the department.

23 (5) The care provider, care provider's relative, or other adult living
24 in the home shall not be the legal guardian of the resident unless the legal
25 guardian is a relative of the resident. A variance may be granted by the de-
26 partment when it determines the guardianship is in the best interest of the
27 nonrelative resident.

28 (6) The care provider must have sufficient resources to maintain the
29 home and the services offered.

30 (7) Information obtained by the care provider about current or prospec-
31 tive residents shall be held confidential as described under section
32 39-3516(7), Idaho Code.

33 (8) The board may implement recordkeeping and reporting requirements
34 as deemed necessary.

35 (a) The certified family home shall maintain and keep current a record
36 of at least the following information for each resident:

37 (i) Admission records, including but not limited to the admission
38 agreement, assessment, plan of service, history and physical ex-
39 amination, review of resident rights policy, emergency contacts,
40 advance directives if so formulated by the resident, and a list of
41 belongings the resident or resident representative chooses to in-
42 ventory; and

43 (ii) Ongoing resident records as applicable, including but not
44 limited to: medication management; incidents, accidents, or
45 changes in the resident's condition and the care provider's re-
46 sponse; and financial accounting records for use of the resident's
47 funds when the care provider is deemed to be managing such funds on
48 behalf of the resident.

49 (b) The care provider shall report at least the following:

1 (i) To the certifying agent: any incident of house fire in the
2 certified family home; any criminal investigation or conviction,
3 or child protection or adult protection investigation, when the
4 alleged perpetrator is the care provider, a substitute caregiver,
5 or any adult member of the household; any critical incident; and
6 any resident discharge from the home;

7 (ii) To the Idaho commission on aging: in accordance with section
8 39-5303, Idaho Code, any abuse, neglect, or exploitation of a vul-
9 nerable adult when the care provider has reasonable cause to be-
10 lieve that such has occurred; and

11 (iii) To local law enforcement: any serious physical injury to or
12 the death of a resident when there is reasonable cause to believe
13 the harm was due to abuse or neglect.

14 (9) The board may implement requirements to ensure the safety and ade-
15 quate care of residents. The care provider shall be responsible for ensuring
16 appropriate and adequate supervision is provided to each resident based on
17 the resident's plan of service.

18 (10) The board may implement requirements for management of medica-
19 tions, including:

20 (a) Development of acceptable policies and procedures regarding the
21 following:

22 (i) Following the orders of the resident's health care profes-
23 sionals;

24 (ii) Maintaining evidence of such orders; and

25 (iii) Training guidance that must be completed prior to any indi-
26 vidual assisting the resident with medications;

27 (b) For residents who wish to self-administer their own medications,
28 the evaluation and approval criteria that shall be met prior to the care
29 provider allowing the resident to self-administer medications; and

30 (c) For residents who need assistance with medications:

31 (i) Conditions under which certified family home staff may offer
32 assistance, taking into consideration the resident's health sta-
33 tus, level of assistance needed, and scope of any professional li-
34 cense held by the individual offering assistance;

35 (ii) Storage and safeguarding of medications, including taking
36 regular inventory of narcotic medications;

37 (iii) Documentation of assistance; and

38 (iv) Proper and timely disposal of discontinued, unused, loose,
39 or expired medications.

40 (11) The certified family home staff shall allow certifying agents to
41 inspect and investigate the certified family home as necessary to determine
42 compliance with this chapter and the department's rules.

43 (12) The board may establish rules for the revocation of certification
44 or other enforcement actions.

45 SECTION 35. That Section 39-5302, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 39-5302. DEFINITIONS. (1) For the purposes of this chapter:

48 (a) "Administrator" means the administrator of the Idaho commission on
49 aging appointed pursuant to section 67-5004, Idaho Code.

- 1 (b) "Adult" means a person aged eighteen (18) years or older.
- 2 (c) "Adult protective services" or "APS" means the legal and bureau-
3 cratic systems and protections safeguarding vulnerable adults through
4 investigation of APS reports alleging maltreatment and arrangements
5 for the provision of emergency, supportive, or prevention services nec-
6 essary to reduce or eliminate risk of harm.
- 7 (d) "APS report" means an allegation of maltreatment of a vulnerable
8 adult made to adult protective services.
- 9 (e) "Caregiver" refers to a formal caregiver or an informal caregiver.
- 10 (f) "Commission" means the Idaho commission on aging, established pur-
11 suant to chapter 50, title 67, Idaho Code.
- 12 (g) "Department" means the Idaho department of health and welfare.
- 13 (h) "Emergency" means an exigent circumstance in which a vulnerable
14 adult's health and safety is placed in imminent danger. Imminent danger
15 is when death or severe bodily injury could reasonably be expected to
16 occur without intervention.
- 17 (i) "Facility" means a health or treatment facility as defined in
18 statute or by the department, including:
- 19 (i) Certified family homes, as defined in section 39-3502, Idaho
20 Code;
- 21 (ii) Developmental disabilities facilities, as defined in sec-
22 tion 39-4604, Idaho Code;
- 23 (iii) Home health agencies, as defined in section ~~39-2402~~ 39-1301,
24 Idaho Code;
- 25 (iv) Hospitals, as defined in section 39-1301, Idaho Code;
- 26 (v) Intermediate care facilities ~~for people with intellectual~~
27 ~~disabilities~~, as defined in section 39-1301, Idaho Code;
- 28 (vi) Residential care or assisted living facilities, as defined
29 in section 39-3302, Idaho Code; and
- 30 (vii) Residential habilitation agencies.
- 31 (j) "Financial exploitation" means the illegal or improper use, con-
32 trol over, or withholding of the property, income, resources, or trust
33 funds of a vulnerable adult by any person or entity for profit or ad-
34 vantage other than for the vulnerable adult's profit or advantage. The
35 term "financial exploitation" includes but is not limited to:
- 36 (i) The use of deception, intimidation, or undue influence by a
37 person or an entity in a position of trust and confidence with a
38 vulnerable adult to obtain or use the property, income, resources,
39 or trust funds of the vulnerable adult for the benefit of a person
40 or an entity other than the vulnerable adult;
- 41 (ii) The breach of a fiduciary duty, including but not limited
42 to the misuse of a power of attorney, trust, or guardianship ap-
43 pointment that results in the unauthorized appropriation, sale,
44 or transfer of the property, income, resources, belongings, or
45 trust funds of the vulnerable adult for the benefit of a person or
46 an entity other than the vulnerable adult; or
- 47 (iii) Obtaining or using a vulnerable adult's property, income,
48 belongings, resources, or trust funds without lawful authority by
49 a person or an entity who knows or clearly should know that the vul-

- 1 nerable adult lacks the capacity to consent to the release or use
2 of his property, income, belongings, resources, or trust funds.
- 3 (k) "Formal caregiver" means a person or an entity that accepts compen-
4 sation to perform a service or services for a vulnerable adult. Compem-
5 sation may be provided by an employer, the vulnerable adult, or someone
6 acting in the interests of the vulnerable adult.
- 7 (l) "Human trafficking" means the recruitment, harboring, transporta-
8 tion, provision, or obtaining of a person for labor or services through
9 the use of force, fraud, or coercion, for the purpose of subjection to
10 involuntary servitude, peonage, debt bondage, or slavery.
- 11 (m) "Infirmities of aging" means physical or mental deterioration as-
12 sociated with advanced age or organic brain damage, or other physical,
13 mental, or emotional dysfunction, such that the ability of an older
14 adult to provide adequately for the adult's own care or protection is
15 impaired.
- 16 (n) "Informal caregiver" means a person who provides support for a vul-
17 nerable adult without expectation of compensation, goods, or services.
- 18 (o) "Investigation" means the evaluation of allegations conducted by a
19 provider or the commission through interviews, observations, and exam-
20 ination of information.
- 21 (p) "Legal representative" means a guardian, a conservator, an attor-
22 ney, or an individual with power of attorney who has the legal obliga-
23 tion to act for the benefit of another.
- 24 (q) "Licensed medical professional" means an individual practicing in
25 a medical or medical-related field who is licensed, certified, or oth-
26 erwise credentialed by the state of Idaho.
- 27 (r) "Neglect" means failure of a caregiver to provide food, clothing,
28 shelter, or medical care, the absence of which impairs or threatens sus-
29 tainable life or health of a vulnerable adult.
- 30 (s) "Older adult" means a person aged sixty-five (65) years or older.
- 31 (t) "Physical abuse" means the infliction of physical pain, injury, or
32 unjust chemical or physical restraint on a vulnerable adult or death
33 where:
- 34 (i) The vulnerable adult's condition or death is not justifiably
35 explained;
- 36 (ii) The history given concerning such condition or death is at
37 variance with the degree or type of the condition or death; or
- 38 (iii) Circumstances indicate that such condition or death may not
39 be the product of an accidental occurrence.
- 40 (u) "Prevention services" means interventions designed to reduce the
41 risk of maltreatment, including but not limited to case management, the
42 provision of goods or services, or caregiver support.
- 43 (v) "Protective action plan" or "PAP" means a person-centered plan
44 addressing the remedial, social, legal, medical, educational, mental
45 health, or other services available to reduce or eliminate the risk of
46 harm to a vulnerable adult.
- 47 (w) "Provider" means an area agency on aging or a person or an entity
48 capable of providing adult protective services, including duly autho-
49 rized agents and employees.

1 (x) "Psychological abuse" means the infliction of fear, anguish, agi-
 2 tation, or other emotional distress through verbal or nonverbal acts or
 3 through unjust confinement of a vulnerable adult.

4 (y) "Self-neglect" means failure of a vulnerable adult to provide for
 5 himself or refusal to accept support needed to obtain food, clothing,
 6 shelter, or medical care reasonably necessary to sustain the life and
 7 health of the vulnerable adult.

8 (z) "Sexual abuse" means touching, fondling, intercourse, or any other
 9 sexual activity with a vulnerable adult when the vulnerable adult is
 10 unable to understand, unwilling to consent, threatened, or physically
 11 forced.

12 (aa) "Skilled nursing facility" shall have the same meaning as "nursing
 13 facility" provided in section 39-1301, Idaho Code.

14 (bb) "Supportive services" means social, legal, health, educational,
 15 mental health, and referral services.

16 (cc) "Undue influence" means influence exercised over a vulnerable
 17 adult with the intent to:

18 (i) Inhibit the vulnerable adult's freedom of choice;

19 (ii) Deprive the vulnerable adult of freedom of choice; or

20 (iii) Substitute the influencer's choice or desire over that of
 21 the vulnerable adult.

22 (dd) "Vulnerable adult" means an adult who is unable to protect himself
 23 from maltreatment because of:

24 (i) A mental, physical, or developmental disability;

25 (ii) A degenerative brain disease;

26 (iii) An inability to communicate or implement decisions regard-
 27 ing his person; or

28 (iv) Other infirmities of aging in an older adult.

29 (ee) "Vulnerable adult maltreatment" or "maltreatment" means the in-
 30 tentional or negligent infliction of pain or injury on a vulnerable
 31 adult, including financial exploitation, human trafficking, neglect,
 32 physical abuse, psychological abuse, or sexual abuse.

33 (2) Nothing in this chapter shall be construed to mean a person is
 34 abused, neglected, or exploited for the sole reason he is relying upon treat-
 35 ment by spiritual means through prayer alone in accordance with the tenets
 36 and practices of a recognized church or religious denomination; nor shall
 37 the provisions of this chapter be construed to require any medical care or
 38 treatment in contravention of the stated or implied objection of such a per-
 39 son.

40 SECTION 36. That Section 54-3215, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 54-3215. EXEMPTIONS. Students enrolled in a recognized program lead-
 43 ing to a degree in social work may practice only under the direct supervision
 44 of a social worker of the licensure status necessary to provide the appropri-
 45 ate level of supervision as provided by board rule. This chapter shall not
 46 apply to any employee of any nursing or intermediate care facility licensed
 47 under section 39-1301 ~~(b)~~, Idaho Code, or section 39-1301 ~~(c)~~, Idaho Code, who
 48 is designated in writing to be responsible for that facility's social ser-

1 vices program and who receives regular consultation from a qualified social
2 worker.

3 SECTION 37. That Section 56-101, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 56-101. DEFINITIONS. Unless the context clearly requires otherwise,
6 the definitions in this section apply throughout this chapter and shall have
7 the following meanings:

8 (1) "Appraisal" means the method of determining the value of the prop-
9 erty as determined by an appraisal conducted by a member of the appraisal in-
10 stitute (MAI), or successor organization. The appraisal must specifically
11 identify the values of land, building, equipment, and goodwill.

12 (2) "Assets" means economic resources of the contractor, recognized
13 and measured in conformity with generally accepted accounting principles.

14 (3) "Bed-weighted median" is determined by arraying the average per
15 diem cost per bed of all facilities from high to low and identifying the bed
16 at the point in the array at which half of the beds have equal or higher per
17 diem costs and half have equal or lower per diem costs. The identified bed
18 is the median bed. The per diem cost of the median bed is the bed-weighted
19 median.

20 (4) "Case mix index" is a numeric score assigned to each facility resi-
21 dent, based on the resident's physical and mental condition, which projects
22 the amount of relative resources needed to provide care to the resident.

23 (5) "Depreciation" means the systematic distribution of the cost or
24 other basis of tangible assets, less salvage, over the estimated useful life
25 of the assets.

26 (6) "Direct care costs" consists of the following costs directly as-
27 signed to the nursing facility or allocated to the nursing facility through
28 medicare cost finding principles:

29 (a) Direct nursing salaries which include the salaries of registered
30 nurses, licensed professional nurses, certificated nurse's aides, and
31 unit clerks; and

32 (b) Routine nursing supplies; and

33 (c) Nursing administration; and

34 (d) Direct portion of medicaid related ancillary services; and

35 (e) Social services; and

36 (f) Raw food; and

37 (g) Employee benefits associated with the direct salaries.

38 (7) "Director" means the director of the department of health and wel-
39 fare or the director's designee.

40 (8) "Equity" means the net book value of all tangible and intangible as-
41 sets less the recorded value of all liabilities, as recognized and measured
42 in conformity with generally accepted accounting principles.

43 (9) "Facility" means an entity which contracts with the director
44 to provide services to recipients in a structure owned, controlled, or
45 otherwise operated by such entity, and which entity is responsible for oper-
46 ational decisions. In conjunction with the use of the term "facility":

47 (a) "Freestanding intermediate care" means an intermediate care facil-
48 ity, as defined in and licensed under chapter 13, title 39, Idaho Code,

1 which is not owned, managed, or operated by, nor is otherwise a part of a
2 hospital, as defined in section 39-1301(a), Idaho Code; and

3 (b) "Freestanding skilled care" means a nursing facility, as defined in
4 and licensed under chapter 13, title 39, Idaho Code, which is not owned,
5 managed, or operated by, nor is otherwise a part of a hospital, as de-
6 fined in section 39-1301(a), Idaho Code; and

7 (c) "Freestanding special care" means a facility that provides either
8 intermediate care, or skilled care, or intermediate care for people
9 with intellectual disabilities, or any combination of either, which is
10 not owned, managed, or operated by, nor is otherwise a part of a hospi-
11 tal, as defined in section 39-1301(a), Idaho Code; and

12 (d) "Hospital-based" means a nursing or intermediate care facility, as
13 defined in and licensed under chapter 13, title 39, Idaho Code, which is
14 owned, managed, or operated by, or is otherwise a part of a hospital, as
15 defined in section 39-1301(a), Idaho Code.

16 (10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the
17 provisions of a will or estate settlement pursuant to the death of an owner,
18 physical or mental incapacity of an owner which requires ownership transfer
19 to existing partner or partners, or a sale required by the ruling of a federal
20 agency or by a court order.

21 (11) "Goodwill" means the amount paid by the purchaser that exceeds the
22 net tangible assets received. The value of goodwill is derived from the eco-
23 nomic benefits that a going concern may enjoy, as compared with a new one,
24 from established relations in the related markets, with government depart-
25 ments and other noncommercial bodies and with personal relationships. These
26 intangible assets cannot be separated from the business and sold as can plant
27 and equipment. Under the theory that the excess payment would be made only
28 if expected future earnings justified it, goodwill is often described as the
29 price paid for excess future earnings. The amortization of goodwill is non-
30 allowable, nonreimbursable expense.

31 (12) "Historical cost" means the actual cost incurred in acquiring and
32 preparing an asset for use, including feasibility studies, architect's
33 fees, and engineering studies.

34 (13) "Indirect care costs" consists of the following costs either di-
35 rectly coded to the nursing facility or allocated to the nursing facility
36 through the medicare step-down process:

37 (a) Administrative and general care cost; and

38 (b) Activities; and

39 (c) Central services and supplies; and

40 (d) Laundry and linen; and

41 (e) Dietary ("non-raw food" costs); and

42 (f) Plant operation and maintenance (excluding utilities); and

43 (g) Medical records; and

44 (h) Employee benefits associated with the indirect salaries; and

45 (i) Housekeeping; and

46 (j) Other costs not included in direct care costs or costs exempt from
47 cost limits.

48 (14) "Interest rate limitation" means that the interest rate allowed
49 for working capital loans and for loans for major movable equipment for in-
50 termediate care facilities for people with intellectual disabilities shall

1 be the prime rate as published in the western edition of the Wall Street
2 Journal or successor publication, plus one percent (1%) at the date the loan
3 is made. All interest expense greater than the amount derived by using the
4 limitation above shall be nonreimbursable; provided, however, that this
5 interest rate limitation shall not be imposed against loans or leases which
6 were made prior to July 1, 1984. Said loans or leases shall be subject to the
7 tests of reasonableness, relationship to patient care and necessity.

8 (15) "Intermediate care facility for people with intellectual disabili-
9 ties" means an habilitative facility designed and operated to meet the ed-
10 ucational, training, habilitative and intermittent medical needs of the de-
11 velopmentally disabled.

12 (16) "Major movable equipment" means such items as accounting machines,
13 beds, wheelchairs, desks, furniture, vehicles, etc. The general character-
14 istics of this equipment are:

15 (a) A relatively fixed location in the building;

16 (b) Capable of being moved, as distinguished from building equipment;

17 (c) A unit cost sufficient to justify ledger control;

18 (d) Sufficient size and identity to make control feasible by means of
19 identification tags; and

20 (e) A minimum life of approximately three (3) years.

21 (17) "Medicaid" means the 1965 amendments to the social security act
22 (P.L. 89-97), as amended.

23 (18) "Minor movable equipment" includes such items as wastebaskets,
24 bedpans, syringes, catheters, silverware, mops, buckets, etc. The general
25 characteristics of this equipment are:

26 (a) In general, no fixed location and subject to use by various depart-
27 ments of the provider's facility;

28 (b) Comparatively small in size and unit cost;

29 (c) Subject to inventory control;

30 (d) Fairly large quantity in use; and

31 (e) Generally, a useful life of approximately three (3) years or less.

32 (19) "Net book value" means the historical cost of an asset, less accu-
33 mulated depreciation.

34 (20) "Normalized per diem costs" refers to direct care costs that have
35 been adjusted based on the facility's case mix index for purposes of making
36 the per diem costs comparable among facilities. Normalized per diem costs
37 are calculated by dividing the facility's direct care per diem costs by its
38 facility-wide case mix index, and multiplying the result by the statewide
39 average case mix index.

40 (21) "Nursing facility inflation rate" means the most specific skilled
41 nursing facility inflation rate applicable to Idaho established by data re-
42 sources, inc., or its successor. If a state or regional index has not been
43 implemented, the national index shall be used.

44 (22) "Patient-day" means a calendar day of care which will include the
45 day of admission and exclude the day of discharge unless discharge occurs af-
46 ter 3:00 p.m. or it is the date of death, except that, when admission and dis-
47 charge occur on the same day, one (1) day of care shall be deemed to exist.

48 (23) "Property costs" means the total of allowable interest expense,
49 plus depreciation, property insurance, real estate taxes, amortization, and
50 allowable lease/rental expense. The department may require and utilize an

1 appraisal to establish those components of property costs which are identi-
2 fied as an integral part of an appraisal.

3 (24) "Raw food" means food used to meet the nutritional needs of the res-
4 idents of a facility, including liquid dietary supplements, liquid thicken-
5 ers, and tube feeding solutions.

6 (25) "Reasonable property insurance" means that the consideration
7 given is an amount that would ordinarily be paid by a cost-conscious buyer
8 for comparable insurance in an arm's length transaction. Property insurance
9 per licensed bed in excess of two (2) standard deviations above the mean of
10 the most recently reported property insurance costs per licensed bed of all
11 facilities in the reimbursement class as of the end of a facility's fiscal
12 year shall not be considered reasonable.

13 (26) "Recipient" means an individual determined eligible by the direc-
14 tor for the services provided in the state plan for medicaid.

15 (27) "Rural hospital-based nursing facilities" are those hospi-
16 tal-based nursing facilities not located within a metropolitan statistical
17 area (MSA) as defined by the United States bureau of the census.

18 (28) "Urban hospital-based nursing facilities" are those hospi-
19 tal-based nursing facilities located within a metropolitan statistical area
20 (MSA) as defined by the United States bureau of the census.

21 (29) "Utilities" means all expenses for heat, electricity, water and
22 sewer.

23 SECTION 38. That Section 56-1402, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 56-1402. DEFINITIONS. As used in this chapter:

26 (1) "Department" means the department of health and welfare.

27 (2) "Disproportionate share hospital" means a hospital that serves a
28 disproportionate share of medicaid low-income patients as compared to other
29 hospitals as determined by department rule.

30 (3) "Governmental entity" means and includes the state and its politi-
31 cal subdivisions.

32 (4) "Hospital" is as defined in section 39-1301(a), Idaho Code.

33 (5) "Political subdivision" means a county, city, municipal corpora-
34 tion or hospital taxing district and, as used in this chapter, shall include
35 state licensed hospitals established by counties pursuant to chapter 36, ti-
36 tle 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37,
37 title 31, Idaho Code.

38 (6) "Private hospital" means a hospital that is not owned by a govern-
39 mental entity.

40 (7) "Upper payment limit" means a limitation established by federal
41 regulations, 42 CFR 447.272 and 42 CFR 447.321, that disallows federal
42 matching funds when state medicaid agencies pay certain classes of hospitals
43 an aggregate amount for inpatient and outpatient hospital services that
44 would exceed the amount that would be paid for the same services furnished by
45 that class of hospitals under medicare payment principles.

46 SECTION 39. That Section 56-1602, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 56-1602. DEFINITIONS. As used in this chapter:

- 2 (1) "CMS" means the centers for medicare and medicaid services.
 3 (2) "Department" means the Idaho department of health and welfare.
 4 (3) "Fiscal year" means the time period from July 1 to June 30.
 5 (4) "Fund" means the ICF assessment fund established pursuant to sec-
 6 tion 56-1603, Idaho Code.
 7 (5) "ICF" means an intermediate care facility ~~for people with intellec-~~
 8 ~~tual disabilities~~ as defined in section 39-1301, Idaho Code, and licensed
 9 pursuant to chapter 13, title 39, Idaho Code.
 10 (6) "Net patient service revenue" means gross revenues from services
 11 provided to ICF patients, less reductions from gross revenue resulting from
 12 an inability to collect payment of charges. Patient service revenue ex-
 13 cludes nonpatient care revenues such as beauty and barber, vending income,
 14 interest and contributions, revenues from sale of meals and all outpatient
 15 revenues. Reductions from gross revenue includes: bad debts; contractual
 16 adjustments; uncompensated care; administrative, courtesy and policy dis-
 17 counts and adjustments; and other such revenue deductions.
 18 (7) "Resident day" means a calendar day of care provided to an ICF resi-
 19 dent, including the day of admission and excluding the day of discharge, pro-
 20 vided that one (1) resident day shall be deemed to exist when admission and
 21 discharge occur on the same day.
 22 (8) "Upper payment limit" means the limitation established in 42 CFR
 23 section 447.272, that disallows federal matching funds when state medicaid
 24 agencies pay certain classes of facilities an aggregate amount for services
 25 that exceed the amount that is paid for the same services furnished by that
 26 class of facilities under medicare payment principles.

27 SECTION 40. That Section 56-1703, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 56-1703. DEFINITIONS. As used in this chapter:

- 30 (1) "Activation" means a declaration by the director of the department
 31 of health and welfare that health care facilities may operate under crisis
 32 standards of care as necessary when scarce resource limitations preclude op-
 33 erating under usual standards of care.
 34 (2) "Assistance" means aid in meeting daily living needs.
 35 (3) "Crisis standards of care" means a substantial change in the usual
 36 health care operations and the level of care it is possible to deliver, jus-
 37 tified by specific circumstances and formally declared by a state government
 38 in recognition that crisis operations will be in effect for a sustained pe-
 39 riod.
 40 (4) "Declaration" means the issuance by the director of the department
 41 of health and welfare of a declaration or documentation that crisis stan-
 42 dards of care have been activated in a particular region or statewide.
 43 (5) "Department" means the Idaho department of health and welfare.
 44 (6) "Director" means the director of the Idaho department of health and
 45 welfare.
 46 (7) "Essential caregiver" means a person designated by a patient or
 47 resident to visit the patient or resident at a health care facility.
 48 (8) "Health care facility" or "facility" means a hospital, a nursing
 49 facility, or an intermediate care facility ~~for individuals with intellec-~~

1 ~~tual disabilities~~ as defined in chapter 13, title 39, Idaho Code, or a resi-
2 dential care or assisted living facility as defined in chapter 33, title 39,
3 Idaho Code.

4 (9) "Health care services" means services for the diagnosis, preven-
5 tion, treatment, cure, or relief of a health condition, illness, injury, or
6 disease.

7 (10) "Patient" means a person receiving health care services at a health
8 care facility.

9 (11) "Resident" means a person receiving assistance at a health care fa-
10 cility.

11 SECTION 41. That Section 63-701, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 63-701. DEFINITIONS. As used in this chapter:

14 (1) "Claimant" means a person who has filed an application under sec-
15 tion 63-602G, Idaho Code, and has filed a claim under the provisions of
16 sections 63-701 through 63-710, Idaho Code. Except as provided in section
17 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which
18 the claimant first filed a claim on the homestead in question, a claimant
19 must be an owner of the homestead, a claimant must have lawful presence in the
20 United States pursuant to section 67-7903, Idaho Code, and on January 1 of
21 said year a claimant must be:

22 (a) Not less than sixty-five (65) years old; or

23 (b) A child under the age of eighteen (18) years who is fatherless or
24 motherless or who has been abandoned by any surviving parent or parents;
25 or

26 (c) A widow or widower; or

27 (d) A disabled person who is recognized as disabled by the social se-
28 curity administration pursuant to title 42 of the United States Code,
29 or by the railroad retirement board pursuant to title 45 of the United
30 States Code, or by the office of management and budget pursuant to title
31 5 of the United States Code, or, if a person is not within the purview of,
32 and is therefore not recognized as disabled by, any other entity listed
33 in this paragraph, then by the public employee retirement system or pub-
34 lic employee disability plan in which the person participates that may
35 be of any state, local unit of government or other jurisdiction in the
36 United States of America; or

37 (e) A disabled veteran of any war engaged in by the United States, whose
38 disability is recognized as a service-connected disability of a degree
39 of ten percent (10%) or more, or who has a pension for nonservice-con-
40 nected disabilities, in accordance with laws and regulations adminis-
41 tered by the United States department of veterans affairs; or

42 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
43 to receive benefits because he is known to have been taken by a hostile
44 force as a prisoner, hostage or otherwise; or

45 (g) Blind.

46 (2) "Homestead" means the dwelling, owner-occupied by the claimant
47 as described in this chapter and used as the primary dwelling place of the
48 claimant and may be occupied by any members of the household as their home,
49 and so much of the land surrounding it, not exceeding one (1) acre, as is

1 reasonably necessary for the use of the dwelling as a home. It may consist
2 of a part of a multidwelling or multipurpose building and part of the land
3 upon which it is built. "Homestead" does not include personal property such
4 as furniture, furnishings or appliances, but a manufactured home may be a
5 homestead.

6 (3) "Household" means the claimant and the claimant's spouse. The term
7 does not include bona fide lessees, tenants, or roomers and boarders on con-
8 tract. "Household" includes persons described in subsection (8) (b) of this
9 section.

10 (4) "Household income" means all income received by the claimant and,
11 if married, all income received by the claimant's spouse, in a calendar year.

12 (5) "Income" means the sum of federal adjusted gross income as defined
13 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
14 to the extent not already included in federal adjusted gross income:

15 (a) Alimony;

16 (b) Support money;

17 (c) Nontaxable strike benefits;

18 (d) The nontaxable amount of any individual retirement account, pen-
19 sion or annuity, including railroad retirement benefits, all payments
20 received under the federal social security act except the social secu-
21 rity death benefit as specified in this subsection, state unemployment
22 insurance laws, and veterans disability pensions and compensation, ex-
23 cluding any return of principal paid by the recipient of an annuity and
24 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding
25 the nontaxable portion of a Roth individual retirement account distri-
26 bution, as provided in 26 U.S.C. 408A;

27 (e) Nontaxable interest received from the federal government or any of
28 its instrumentalities or a state government or any of its instrumentali-
29 ties;

30 (f) Worker's compensation; and

31 (g) The gross amount of loss of earnings insurance.

32 It does not include gifts from nongovernmental sources or inheritances. To
33 the extent not reimbursed, the cost of medical care as defined in section
34 213(d) of the Internal Revenue Code, incurred and paid by the claimant and,
35 if married, the claimant's spouse, may be deducted from income. To the ex-
36 tent not reimbursed, personal funeral expenses, including prepaid funeral
37 expenses and premiums on funeral insurance, of the claimant and claimant's
38 spouse only, may be deducted from income up to an annual maximum of five
39 thousand dollars (\$5,000) per claim. "Income" does not include veterans
40 disability pensions received by a person described in subsection (1)(e)
41 of this section who is a claimant or a claimant's spouse if the disability
42 pension is received pursuant to a service-connected disability of a de-
43 gree of forty percent (40%) or more. "Income" does not include dependency
44 and indemnity compensation or death benefits paid to a person described in
45 subsection (1) of this section by the United States department of veterans
46 affairs and arising from a service-connected death or disability. "Income"
47 does not include lump sum death benefits made by the social security admin-
48 istration pursuant to 42 U.S.C. 402(i). Documentation of medical expenses
49 may be required by the county assessor and state tax commission in such form
50 as the county assessor or state tax commission shall determine. For pur-

1 poses of this chapter only and in the case of a claimant who owns and whose
2 homestead is a certified family home as defined in section 39-3502, Idaho
3 Code, "income" does not include payments that the claimant received as an
4 enrolled medicaid provider from the medical assistance program. "Income"
5 shall be that received in the calendar year immediately preceding the year
6 in which a claim is filed. Where a claimant and/or the claimant's spouse
7 does not file a federal tax return, the claimant's and/or the claimant's
8 spouse's federal adjusted gross income, for purposes of this section, shall
9 be an income equivalent to federal adjusted gross income had the claimant
10 and/or the claimant's spouse filed a federal tax return, as determined by the
11 county assessor. The county assessor or state tax commission may require
12 documentation of income in such form as each shall determine, including, but
13 not limited to: copies of federal or state tax returns and any attachments
14 thereto; and income reporting forms such as the W-2 and 1099.

15 For determining income for certain married individuals living apart,
16 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
17 shall apply.

18 (6) "Occupied" means actual use and possession.

19 (7) "Owner" means a person holding title in fee simple or holding a cer-
20 tificate of motor vehicle title (either of which may be subject to mortgage,
21 deed of trust or other lien) or who has retained or been granted a life estate
22 or who is a person entitled to file a claim under section 63-702, Idaho Code.
23 "Owner" shall also include any person who:

24 (a) Is the beneficiary of a revocable or irrevocable trust which is the
25 owner of such homestead and under which the claimant or the claimant's
26 spouse has the primary right of occupancy of the homestead; or

27 (b) Is a partner of a limited partnership, member of a limited liabil-
28 ity company or shareholder of a corporation if such entity holds title
29 in fee simple or holds a certificate of motor vehicle title and if the
30 person holds at least a five percent (5%) ownership in such entity, as
31 determined by the county assessor; or

32 (c) Has retained or been granted a life estate.

33 "Owner" includes a vendee in possession under a land sale contract. Any
34 partial ownership shall be considered as ownership for determining initial
35 qualification for property tax reduction benefits; however, the amount of
36 property tax reduction under section 63-704, Idaho Code, and rules promul-
37 gated pursuant to section 63-705, Idaho Code, shall be computed on the value
38 of the claimant's partial ownership. "Partial ownership," for the purposes
39 of this section, means any one (1) person's ownership when property is owned
40 by more than one (1) person or where the homestead is held by an entity, as
41 set forth in this subsection, but more than one (1) person has the right of
42 occupancy of such homestead. A person holding either partial title in fee
43 simple or holding a certificate of motor vehicle title together with another
44 person, but who does not occupy the dwelling as his primary dwelling place,
45 shall not be considered an owner for purposes of this section, if such person
46 is a cosignatory of a note secured by the dwelling in question and at least
47 one (1) of the other cosignatories of the note occupies the dwelling as his
48 primary dwelling place. The combined community property interests of both
49 spouses shall not be considered partial ownership as long as the combined
50 community property interests constitute the entire ownership of the home-

1 stead, including where the spouses are occupying a homestead owned by an en-
2 tity, as set forth in this subsection, and the spouses have the primary right
3 of occupancy of the homestead. The proportional reduction required under
4 this subsection shall not apply to community property interests. Where
5 title to property was held by a person who has died without timely filing a
6 claim for property tax reduction, the estate of the deceased person shall be
7 the "owner," provided that the time periods during which the deceased person
8 held such title shall be attributed to the estate for the computation of any
9 time periods under subsection (8) (a) or (b) of this section.

10 (8) (a) "Primary dwelling place" means the claimant's dwelling place
11 on January 1 or before April 15 of the year for which the claim is made.
12 The primary dwelling place is the single place where a claimant has
13 his true, fixed and permanent home and principal establishment, and to
14 which whenever the individual is absent he has the intention of return-
15 ing. A claimant must establish the dwelling to which the claim relates
16 to be his primary dwelling place by clear and convincing evidence or by
17 establishing that the dwelling is where the claimant resided on January
18 1 or before April 15 and:

19 (i) At least six (6) months during the prior year; or

20 (ii) The majority of the time the claimant owned the dwelling if
21 owned by the claimant less than one (1) year; or

22 (iii) The majority of the time after the claimant first occupied
23 the dwelling if occupied by the claimant for less than one (1)
24 year. The county assessor may require written or other proof of
25 the foregoing in such form as the county assessor may determine.

26 (b) Notwithstanding the provisions of paragraph (a) of this subsec-
27 tion, the property upon which the claimant makes application shall be
28 deemed to be the claimant's primary dwelling place if the claimant is
29 otherwise qualified and resides in a care facility and does not allow
30 the property upon which the claimant has made application to be occu-
31 pied by persons paying a consideration to occupy the dwelling. Payment
32 of utilities shall not be payment of a consideration to occupy the
33 dwelling. A claimant's spouse who resides in a care facility shall be
34 deemed to reside at the claimant's primary dwelling place and to be a
35 part of the claimant's household. A care facility is a hospital, nurs-
36 ing facility or intermediate care facility ~~for people with intellectual~~
37 ~~disabilities~~ as defined in section 39-1301, Idaho Code, or a facility
38 as defined in section 39-3302(16), Idaho Code, or a dwelling other than
39 the one upon which the applicant makes application where a claimant who
40 is unable to reside in the dwelling upon which the application is made
41 lives and receives help in daily living, protection and security.

42 SECTION 42. The rules contained in IDAPA 16.03.02, Idaho Department of
43 Health and Welfare, relating to Skilled Nursing Facilities, shall be null,
44 void, and of no force and effect on and after July 1, 2025.

45 SECTION 43. The rules contained in IDAPA 16.03.07, Idaho Department of
46 Health and Welfare, relating to Home Health Agencies, shall be null, void,
47 and of no force and effect on and after July 1, 2025.

1 SECTION 44. The rules contained in IDAPA 16.03.11, Idaho Department of
2 Health and Welfare, relating to Intermediate Care Facilities for People with
3 Intellectual Disabilities (ICFs/IID), shall be null, void, and of no force
4 and effect on and after July 1, 2025.

5 SECTION 45. The rules contained in IDAPA 16.03.14, Idaho Department of
6 Health and Welfare, relating to Hospitals, shall be null, void, and of no
7 force and effect on and after July 1, 2025.

8 SECTION 46. An emergency existing therefor, which emergency is hereby
9 declared to exist, this act shall be in full force and effect on and after
10 July 1, 2025.